

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Chris Langer,

Plaintiff,

v.

El Adobe Studio Building, a
California Limited Partnership;
Compass Properties, Inc., a
California Corporation; and Does 1-
10,

Defendants.

Case No.

**Complaint For Damages And
Injunctive Relief For** Violations
Of: American's With Disabilities
Act; Unruh Civil Rights Act

Plaintiff Chris Langer complains of Defendants El Adobe Studio Building, a California Limited Partnership; Compass Properties, Inc., a California Corporation; and Does 1-10 ("Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of

1 his van and he has a Disabled Person Parking Placard issued to him by the
2 State of California.

3 2. Defendants El Adobe Studio Building Limited Partnership and
4 Compass Properties, Inc., owned the property ("Strip Mall") located at or
5 about 5203 Hollywood Blvd., Los Angeles, California, in May 2015.

6 3. Defendants El Adobe Studio Building Limited Partnership and
7 Compass Properties, Inc., own the property ("Strip Mall") located at or about
8 5203 Hollywood Blvd., Los Angeles, California, currently.

9 4. Plaintiff does not know the true names of Defendants, their business
10 capacities, their ownership connection to the property and business, or their
11 relative responsibilities in causing the access violations herein complained of,
12 and alleges a joint venture and common enterprise by all such Defendants.
13 Plaintiff is informed and believes that each of the Defendants herein,
14 including Does 1 through 10, inclusive, is responsible in some capacity for
15 the events herein alleged, or is a necessary party for obtaining appropriate
16 relief. Plaintiff will seek leave to amend when the true names, capacities,
17 connections, and responsibilities of the Defendants and Does 1 through 10,
18 inclusive, are ascertained.

19
20 **JURISDICTION & VENUE:**

21 5. This Court has subject matter jurisdiction over this action pursuant to
22 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans
23 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

24 6. Pursuant to supplemental jurisdiction, an attendant and related cause
25 of action, arising from the same nucleus of operative facts and arising out of
26 the same transactions, is also brought under California's Unruh Civil Rights
27 Act, which act expressly incorporates the Americans with Disabilities Act.

28 7. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is

1 founded on the fact that the real property which is the subject of this action is
2 located in this district and that Plaintiff's cause of action arose in this district.

3
4 **FACTUAL ALLEGATIONS:**

5 8. The Plaintiff went to the Strip Mall in May 2015 to shop at the El
6 Adobe Market & Liquor.

7 9. The Strip Mall is a facility open to the public, a place of public
8 accommodation, and a business establishment.

9 10. Parking spaces are one of the facilities, privileges and advantages
10 specifically reserved by defendants to persons at the property serving the
11 Strip Mall.

12 11. Unfortunately, although parking spaces are one of the facilities
13 available to patrons of the Restaurant, there was not a single compliant van-
14 accessible handicap parking space available for persons with disabilities that
15 complied with the Americans with Disability Act Accessibility Guidelines
16 (ADAAG) in May 2015.

17 12. Instead, there was a parking space reserved for persons with
18 disabilities who drive smaller cars. The parking space measured 96 inches in
19 width while the access aisle measured 60 inches in width. This is not van
20 accessible.

21 13. Plaintiff, on information and belief, alleges that there used to be a van-
22 accessible parking space designed and reserved for persons with disabilities
23 on the property prior to May 2015.

24 14. There is currently no van-accessible parking space on the property
25 today.

26 15. Defendants had no policy or procedure in place to make sure that the
27 van-accessible parking space remained useable in the parking lot in May
28 2015.

1 16. Defendants have no policy or procedure in place to make sure that the
2 van-accessible parking space remains useable in the parking lot currently.

3 17. As a result of not being able to park at this property, plaintiff had to go
4 to another location in the area. Plaintiff was able to shop at another store
5 located within one mile of this location.

6 18. The plaintiff personally encountered this problem. This inaccessible
7 condition denied the plaintiff full and equal access and caused him difficulty
8 and frustration.

9 19. Meanwhile, and even though plaintiff did not personally confront this
10 barrier, the transaction counter is about 42 inches in height. There is no
11 lowered, 36 inch portion of counter for use by persons in wheelchairs.

12 20. Plaintiff would like to return and patronize the Strip Mall but will be
13 deterred from visiting until the defendants cure the violation.

14 21. Plaintiff visits Los Angeles County and travels, eats, and shops, and
15 attends auctions and other events in the County on a regular and ongoing
16 basis.

17 22. Because of the location of the Strip Mall, plaintiff would like to return.

18 23. The defendants have failed to maintain in working and useable
19 conditions those features required to provide ready access to persons with
20 disabilities.

21 24. The violations identified above are easily removed without much
22 difficulty or expense. They are the types of barriers identified by the
23 Department of Justice as presumably readily achievable to remove and, in
24 fact, these barriers are readily achievable to remove. Moreover, there are
25 numerous alternative accommodations that could be made to provide a
26 greater level of access if complete removal were not achievable.

27 25. Given the obvious and blatant violation, the plaintiff alleges, on
28 information and belief, that there are other violations and barriers on the site

1 that relate to his disability. Plaintiff will amend the complaint, to provide
 2 proper notice regarding the scope of this lawsuit, once he conducts a site
 3 inspection. However, please be on notice that the plaintiff seeks to have all
 4 barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034
 5 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site,
 6 he can sue to have all barriers that relate to his disability removed regardless
 7 of whether he personally encountered them).

8 26. Additionally, on information and belief, the plaintiff alleges that the
 9 failure to remove these barriers was intentional because: (1) these particular
 10 barriers are intuitive and obvious; (2) the defendants exercised control and
 11 dominion over the conditions at this location and, therefore, the lack of
 12 accessible facilities was not an “accident” because had the defendants
 13 intended any other configuration, they had the means and ability to make the
 14 change.

15
 16 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
 17 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against all
 18 defendants (42 U.S.C. section 12101, et seq.)

19 27. Plaintiff repleads and incorporates by reference, as if fully set forth
 20 again herein, the allegations contained in all prior paragraphs of this
 21 complaint.

22 28. Under the ADA, it is an act of discrimination to fail to ensure that the
 23 privileges, advantages, accommodations, facilities, goods and services of any
 24 place of public accommodation is offered on a full and equal basis by anyone
 25 who owns, leases, or operates a place of public accommodation. See 42
 26 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- 27 a. A failure to make reasonable modifications in policies, practices,
 28 or procedures, when such modifications are necessary to afford

goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).

b. A failure to remove architectural barriers where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are defined by reference to the ADAAG, found at 28 C.F.R., Part 36, Appendix “D.”

c. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities. 42 U.S.C. § 12183(a)(2).

29. Any business that provides parking spaces must provide accessible parking spaces. 1991 Standards § 4.1.2(5); 2010 Standards § 208. One in every eight of those accessible parking spaces but not less than one must be a “van” accessible parking space, *i.e.*, having an eight foot access aisle. 1991 Standards § 4.1.2(5)(b). Under the 2010 Standards, one in every six accessible parking spaces must be van accessible. 2010 Standards § 208.2.4.

30. Here, the lack of a van-accessible parking space is a violation of the law.

31. In areas used for transactions where counters have cash registers and are provided for sales or distribution of goods or services to the public, at least one of each type shall have a portion of the counter which is at least 36 inches in length with a maximum height of 36 inches above the floor. 1991

1 Standards § 7.2(1). Under the 2010 Standards, where the approach to the
2 sales or service counter is a parallel approach, such as in this case, there must
3 be a portion of the sales counter that is no higher than 36 inches above the
4 floor and 36 inches in width and must extend the same depth as the rest of
5 the sales or service counter top. 2010 Standards § 904.4 & 904.4.1.

6 32. Here, no such accessible transaction counter has been provided in
7 violation of the ADA.

8 33. A public accommodation must maintain in operable working condition
9 those features of its facilities and equipment that are required to be readily
10 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

11 34. Here, the failure to ensure that the accessible facilities were available
12 and ready to be used by the plaintiff is a violation of the law.

13 35. Given its location and options, plaintiff will continue to desire to
14 patronize the Strip Mall but he has been and will continue to be discriminated
15 against due to the lack of accessible facilities and, therefore, seeks injunctive
16 relief to remove the barriers.

17
18 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
19 **RIGHTS ACT** (On behalf of plaintiffs and against all defendants) (Cal Civ §
20 51-53)

21 36. Plaintiff repleads and incorporates by reference, as if fully set forth
22 again herein, the allegations contained in all prior paragraphs of this
23 complaint.

24 37. Because the defendants violated the plaintiffs' rights under the ADA,
25 they also violated the Unruh Civil Rights Act and are liable for damages. (Civ.
26 Code § 51(f), 52(a).)

27 38. Because the violation of the Unruh Civil Rights Act resulted in
28 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are

1 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §
2 55.56(a)-(c).)

3
4 **PRAYER:**

5 Wherefore, Plaintiff prays that this court award damages and provide
6 relief as follows:

7 1. For injunctive relief, compelling defendants to comply with the
8 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
9 Plaintiff is not invoking section 55 of the California Civil Code and is not
10 seeking injunctive relief under the Disabled Persons Act at all.

11 2. Damages under the Unruh Civil Rights Act which damages provide for
12 actual damages and a statutory minimum of \$4,000.

13 3. Reasonable attorney fees, litigation expenses and costs of suit,
14 pursuant to 42 U.S.C. § 12205; Cal. Civ. Code § 52.

15 Dated: December 4, 2015 CENTER FOR DISABILITY ACCESS

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17 
18 By: _____
19 Mark Potter, Esq.
20 Attorneys for Plaintiff
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